Top 100 Bank Holding Companies

Listed geographically by order of total assets within states (dollar amounts in millions)

		Assets 6/30/90
	Alabama	
64	AmSouth Bancorporation, Birmingham	8,516
66	SouthTrust Corp., Birmingham	8,260
91	First Alabama Bancshares, Inc., Montgomery	5,363
94	Central Bancshares of the South, Inc., Birmingham	4,818
	Arizona	
58	Valley National Corp., Phoenix	10,430
	California	
2	BankAmerica Corp., San Francisco★	103,960
4	Security Pacific Corp., Los Angeles★	94,510
10	First Interstate Bancorp., Los Angeles★	55,082
11	Wells Fargo & Co., San Francisco★	51,712
65	BanCal Tri-State Corp., San Francisco	8,427
93	City National Corp., Beverly Hills	4,885
	Colorado	
81	United Banks of Colorado, Inc., Denver	6,267
	Connecticut	
28	Shawmut National Corp., Hartford★	26,577
	District of Columbia	
54	First American Bankshares, Inc., Washington, D.C.	11,633
73	Riggs National Corp., Washington, D.C.	7,069
	Florida	
20	Barnett Banks, Inc., Jacksonville★	31,128
41	Southeast Banking Corp., Miami	15,833
88	First Florida Banks, Inc., Tampa	5,546
	Georgia	
19	SunTrust Banks, Inc., Atlanta★	31,257
32	Citizens & Southern Corp., Atlanta★	24,259
90	Bank South Corp., Atlanta	5,514
	Hawaii	
62	Bancorp Hawaii, Inc., Honolulu	8,972
89	First Hawaiian, Inc., Honolulu	5,534
	Idaho	
99	West One Bancorp, Boise, Idaho	4,397
	Illinois	
12	First Chicago Corp.	50,361
22	Continental Bank Corp., Chicago	29,532
51	Northern Trust Corp., Chicago	11,737
53	Harris Bankcorp, Inc., Chicago	11,645
76	LaSalle National Corp., Chicago	6,851
	Indiana	
84	INB Financial Corp., Indianapolis	5,988
85	Merchants National Corp., Indianapolis	5,738
	Louisiana	
70	Hibernia Corp., New Orleans	7,366
	Maryland	
25	MNC Financial, Inc., Baltimore★	27,539
69	First Maryland Bancorp., Baltimore	7,495
100	Mercantile Bankshares Corp., Baltimore	4,317
	Massachusetts	
16	Bank of Boston Corp.	37,297
35	Bank of New England Corp., Boston★	23,071
60	State Street Boston Corp.	10,306
61	BayBanks, Inc., Boston	10,056
	Michigan	
27	NBD Bancorp., Inc., Detroit★	26,646
46	First of America Bank Corp., Kalamazoo	12,966
49	Comerica, Inc., Detroit	12,214
55	Michigan National Corp., Farmington Hills	11,632
56	Manufacturers National Corp., Detroit	11,205
67	Old Kent Financial Corp., Grands Rapids	8,098
	Minnesota	
26	Norwest Corp., Minneapolis★	26,770
38	First Bank System, Inc., Minneapolis	19,425
	Mississippi	
96	Deposit Guaranty Corp., Jackson	4,697
	Missouri	
43	Boatmen's Bancshares, Inc., St. Louis	15,044
75	Mercantile Bancorporation Inc., St. Louis	6,861
82	Commerce Bancshares, Inc., Kansas City	6,075
	New Jersey	
21	First Fidelity Bancorporation, Lawrenceville★	29,848
33	Midlantic Corp., Edison★	24,231
45	UJB Financial Corp., Princeton	13,281
	New York	
1	Citicorp, New York	227,752
3	Chase Manhattan Corp., New York	102,371
5	J.P. Morgan & Co., Inc., New York	93,103
6	Chemical Banking Corp., New York	75,216
8	Manufacturers Hanover Corp., New York	63,548
9	Bankers Trust New York Corp.	57,341
13	Bank of New York Co., Inc.★	48,953
23	Republic New York Corp.	29,199
30	Marine Midland Banks, Inc., Buffalo★	24,514
37	National Westminster Bancorp, Inc., New York★	21,945
40	KeyCorp, Albany, N.Y.	16,006
77	First Empire State Corp., Buffalo	6,569
87	European American Bancorp, New York	5,598
	North Carolina	
7	NCNB Corp., Charlotte★	66,188
15	First Union Corp., Charlotte★	38,385
31	First Wachovia Corp., Winston-Salem★	24,280
95	BB&T Financial Corp., Wilson	4,779
	Ohio	
24	Banc One Corp., Columbus★	27,921
34	National City Corp., Cleveland★	23,092
42	Society Corp., Cleveland	15,566
52	Huntington Bancshares, Inc., Columbus	11,684
57	Ameritrust Corp., Cleveland	11,097
71	Fifth Third Bancorp, Cincinnati	7,344
83	Star Banc Corp., Cincinnati	6,058
	Oregon	
39	U.S. Bancorp., Portland	17,748
	Pennsylvania	
14	PNC Financial Corp, Pittsburgh★	47,823
18	Mellon Bank Corp., Pittsburgh★	31,670
36	CoreStates Financial Corp, Philadelphia★	22,765
50	Meridian Bancorp., Inc., Reading	11,771
68	Integra Financial Corp., Pittsburgh	7,619
	Rhode Island	
17	Fleet/Norstar Financial Group, Inc., Providence★	34,120
	South Carolina	
79	South Carolina National Corp., Columbia	6,428
	Tennessee	
72	First American Corp., Nashville	7,081
78	First Tennessee National Corp., Memphis	6,430
	Texas	
44	First City Bancorporation of Texas, Inc., Houston	13,897
97	Team Bancshares, Inc., Dallas	4,647
	Utah	
80	First Security Corp., Salt Lake City	6,335
	Virginia	
29	Sovran Financial Corp., Norfolk★	26,068
47	Signet Banking Corp., Richmond	12,655
48	Crestar Financial Corp., Richmond	12,216
59	Dominion Bankshares Corp., Roanoke	10,323
86	Central Fidelity Banks Inc., Richmond	5,707
92	First Virginia Banks, Inc., Falls Church	5,211
	Washington	
98	Puget Sound Bancorp., Tacoma	4,425
	Wisconsin	
63	Firstar Corp., Milwaukee	8,534
74	Marshall & Ilsley Corp., Milwaukee	7,067

Data source: Data Sources: American Banker survey questionnaire and second quarter earnings releases. **(★)— A superregional banking firm,** which the American Banker defines as a nonmoney-center banking company with assets greater than $20 billion that has merged across state lines to establish a full commercial banking presence in another state.

Compiled by American Banker, Copyright 1990.

The 10 Largest Gains in Assets

Over the first half of 1990 among the top 200 banking companies

		Total Assets 6/30/90	Total Assets 12/31/89	Percent Increase	Asset Rank
1	LaSalle National Corp., Chicago	6,850,779,000	3,430,510,000	99.70	76
2	Society Corp., Cleveland	15,566,230,000	10,903,327,000	42.77	42
3	MNC Financial Inc., Baltimore	27,538,669,000	20,316,349,000	35.55	25
4	CoreStates Financial Corp., Philadelphia	22,764,876,000	16,848,649,000	35.11	36
5	First Commercial Corp., Little Rock, Ark.	2,100,984,000	1,582,885,000	32.73	155
6	Fourth Financial Corp., Wichita, Kan.	4,150,703,000	3,181,918,000	30.45	102
7	Deposit Guaranty Corp., Jackson, Miss.	4,696,555,000	3,744,939,000	25.41	96
8	Fulton Financial Corp., Lancaster, Pa.	1,732,729,000	1,399,523,000	23.81	169
9	First Union Corp., Charlotte, N.C.	38,385,160,000	32,130,558,000	19.47	15
10	Firstier Financial Inc., Omaha, Neb.	3,152,271,000	2,656,397,000	18.67	121

The Largest Losses in Assets

Over the first half of 1990 among the top 200 banking companies

		Total Assets 6/30/90	Total Assets 12/31/89	Percent Decline	Asset Rank
1	National Bancshares Corp., San Antonio	269,912,000	1,916,994,000	85.92	---
2	Bank of New England Corp., Boston	23,071,255,000	29,772,719,000	22.51	35
3	Citytrust Bancorp Inc., Bridgeport, Conn.	2,243,915,000	2,642,465,000	15.08	150
4	Washington Bancorporation, D.C. (a)	1,772,100,000	2,081,725,000	14.87	167
5	Amoskeaq Bk Shares Inc., Manchester, N.H.	1,809,667,000	2,014,127,000	10.15	165
6	Marine Midland Banks Inc., Buffalo	24,513,888,000	27,066,546,000	9.43	30
7	BancOklahoma Corp., Tulsa	1,820,881,000	1,971,763,000	7.65	164
8	First Commerce Corp., New Orleans	4,302,583,000	4,657,952,000	7.63	101
9	Equimark Corp., Pittsburgh	3,515,859,000	3,800,933,000	7.50	111
10	Cullen/ Frost Bankers Inc., San Antonio	3,251,893,000	3,505,038,000	7.22	118

(a)— Its bank subsidiary— National Bank of Washington— failed in August.

Only a Third of Thrift Rescues Completed, Survey Finds

Continued from *page* **1**

have be done in a number of other states.

The Resolution Trust Corp. and the former Federal Home Loan Bank Board at midyear had disposed of $172 billion of the minimum $500 billion in thrift assets the government must eventually resolve, an analysis of regulatory reports reveals.

What is more, as of mid-August there were at least $275 billion of U.S. thrift assets controlled by failed or failing thrifts outside of Texas – most concentrated in real estate markets that are visibly weakening.

High Costs in Texas

The Texas rescues completed by midyear were highly expensive. Though rescues in the Lone Star state accounted for roughly a third of assets resolved between 1988 and midyear 1990, they accounted for almost 60% of the resulting costs, excluding financing.

By contrast, fairly stable markets elsewhere have helped the RTC – so far. In California, for example, assets resolved by the RTC on the average were only 13% less valuable than the insured deposits with which they were funded. That compares with a 66% shortfall at Texas thrifts rescued by the RTC as of midyear.

But the danger now is that the national economy and real estate market will fall apart before the government's cleanup efforts kick into high gear.

Texas-sized downturns could devalue thrift assets across the country, provoking Texas-sized cleanup expenses. More thrifts would go broke; broke thrifts would sink deeper underwater.

"If the nation as a whole enters a recession, property values could decline significantly, and thrift cleanup costs could rise very dramatically," said Henry Peltz, a vice president at Keefe, Bruyette & Woods, New York.

OTS Summary of Assets

In response to a request by this newspaper, the Office of Thrift Supervision provided a state-by-state summary of assets held by thrifts that the agency believes will fail.

The OTS totals, when combined with assets of thrifts under RTC control as of mid-August, reveal a wide regional dispersion of thrifts requiring resolution – and enormous concentrations of assets. (The figures do not reflect a number of resolutions announced since mid-August.)

On the East Coast, there were $97 billion of thrift assets to be resolved – $48 billion in the South Atlantic states, $43 billion in the Middle Atlantic states, and $6 billion in the New England states.

In the Pacific states of California, Oregon, and Washington, the RTC as of mid-August was facing a $74 billion cleanup operation.

The East North Central and West North Central states contained a $55 billion resolution case load. And in the battered West South Central states, including Texas, Oklahoma, and Louisiana, the RTC still had a $52 billion backlog of thrifts awaiting rescue – some for the second time.

Including Texas, the total population of thrift rescue candidates as of mid-August held $310 billion of assets.

Growing Caseload

The numbers are a snapshot of a caseload that seems to do nothing but grow. "Every time you look, the numbers get bigger," said Frank Anderson, a senior analyst with Stephens Inc., Little Rock, Ark.

What made the Texas thrift rescues so expensive, experts say, was the speculative nature of the institutions' assets, the severity of the region's economic collapse, and the many years of delay in closing the institutions.

Now that formula is at work in other markets. And the results already are showing: During the first quarter of 1990 alone, thrifts under conservatorship in the RTC's Eastern region reported a 28% increase in delinquent loans; there was a 41.3% jump in delinquencies in the RTC's Western region.

The dead wood will continue to pile up over the next few years, experts say, as deepening regional real estate recessions shake loan portfolios in the East and the West regions.

"The delinquencies come first, then you get the foreclosures," said James Barth, the former OTS chief economist who is a professor at Auburn University.

The treacherous aspect of loan defaults is the rapidity with which attendant losses can mount, Texas lenders say.

Peter Bartholow, chairman and chief executive of the bankrupt MCorp, at one time the largest bank holding company in Texas, said an institution easily can incur a 20% loss on a loan in the first year of its delinquency.

He ticked off funding costs, fees for accountants and lawyers, and management expenses as the principal factors in the loss.

Further upward pressure on cleanup costs could emerge if Congress continues to balk in giving the RTC the funds it needs to keep the pace of resolutions moving swiftly. One reason the Texas cleanup cost so much was that multitudes of thrifts were kept open years after their insolvencies because regulators lacked funds to sell or close them – substantially deepening their losses.

Voicing concerns about market deterioration, RTC chairman L. William Seidman in August put a minimum $100 billion price tag on the RTC cleanup – double the $50 billion estimate the Bush Administration relied upon in crafting the thrift reform law.

And that figure could be conservative: "We simply do not have the data to estimate accurately the potential cost of shutting down in excess of 1,000 thrifts if the economy and real estate markets around the country enter into a prolonged slump," said Mr. Seidman in testimony before the House Ways and Means Committee.

In companion testimony, the General Accounting Office took a swing at the potential cost exclusive of financing charges: $201 billion.

900 Thrifts Ailing

The huge gap between Mr. Seidman's minimum and the GAO's maximum largely springs from the uncertain fate of the roughly 900 thrifts that, while not failing, nevertheless are not in good health. Rescue work made necessary by failures among these institutions would be in addition to the work identified in the survey.

Timothy Ryan, director of the OTS, last week offered no guarantees that all of these institution would survive.

"Any further deterioration in . . . real estate markets, or volatility in the financial markets, will certainly impair the prospects for the survival of troubled (thrifts)," the regulator told a Dallas audience. □

State-by-State Look at the Thrift Cleanup

-- Where the assets are
-- How much it has cost so far

(Dollar figures in billions)

	Unfinished work		RTC deals		Cost so far	Bank Board deals	
	Unresolved assets*	Unresolved assets as % of total caseload per state	Assets resolved by RTC as of 6/90	Cost as % of total assets	Cash cost of completed work**	Assets resolved by Bank Board, '88 & '89	Cost as % of total Assets
Calif.	$ 64.44	52%	$ 8.800	14%	$ 10.534	$ 49.985	21%
Texas	35.02	38	16.000	66	42.896	42.032	77
Fla.	27.36	71	9.100	29	4.062	2.332	62
N.J.	17.41	98	0.105	29	.118	0.246	33
Ariz.	15.74	79	4.158	43	1.781	—	NA
N.Y.	15.26	100	—	NA	—	—	NA
Ill.	13.42	74	1.600	20	.990	3.014	22
Kan.	11.61	81	2.800	48	1.341	—	NA
Penn.	10.17	65	4.701	22	1.053	0.710	NA
Ore.	8.67	93	0.089	10	.523	0.515	102
Neb.	7.75	86	1.070	40	.447	0.186	10
Va.	7.10	85	0.029	20	.209	1.181	17
Mo.	6.45	85	1.155	34	.387	—	NA
Mass.	6.12	00	—	NA	—	—	NA
La.	5.79	84	1.000	35	.526	0.072	NA
Ark.	5.63	94	0.220	67	.188	0.130	34
Minn.	5.59	100	—	NA	—	—	NA
Okla.	5.62	60	0.060	21	1.634	3.716	44
Md.	4.73	81	1.104	30	.333	—	NA
Ohio	8.96	67	1.196	16	.319	0.798	17
P.R.	3.63	NA	NA		NA	NA	
Ala.	3.52	88	0.408	43	.186	0.078	16
N.C.	3.27	97	0.117	37	.043	—	NA
N.M.	3.16	83	0.519	28	.224	0.150	53
Iowa	2.90	68	0.132	45	.411	1.260	28
Ga.	2.89	71	0.855	29	.257	0.342	NA
S.C.	2.24	99	0.031	7	.002	—	NA
Mich.	2.16	78	0.188	16	.096	0.437	13
Miss.	1.61	68	0.681	45	.373	0.066	102
Colo.	1.35	23	1.900	36	1.866	2.346	51
N.D.	1.14	51	—	NA	NA	1.096	NA
Wash.	1.05	28	1.398	8	.189	1.292	7
Ky.	0.53	72	—	NA	.085	0.207	41
S.D.	0.42	81	—	NA	.008	0.096	9
Utah	0.41	18	1.880	24	.451	—	NA
Wyo.	0.30	51	0.021	54	.167	0.532	29
Nev.	0.30	85	—	NA	NA	0.052	NA
Ind.	0.25	29	0.069	13	.095	0.534	16
Conn.	0.20	64	0.112	27	.030	—	NA
Tenn.	0.14	24	0.300	29	.106	0.142	13
W.Va.	0.12	100	—	NA	—	—	NA
Mont.	0.09	43	—	NA	.011	0.119	10
Wis.	0.09	30	0.207	NA	.049	—	NA
Ark.	—	0	0.243	67	.175	—	NA
R.I.	—	0	—	NA	.046	0.190	24
	$310.00	65	$ 62.600	40	$ 72.301	$109.910	43

*Assets of thrifts that regulators as of midyear believed would fail, plus assets of thrifts under RTC conservatorship or receivorship and awaiting resolution as of mid-August.
**Present value of resolution costs, which excludes cost of financing.
SOURCES: Office of Thrift Supervision, Resolution Trust Corp., Federal Deposit Insurance Corp., U.S. Dept. of Commerce, Bureau of the Census. Compiled by the American Banker.

Tougher Rules Urged for Banks In Underwriting

WASHINGTON — Reacting to the recent Federal Reserve Board approval to J.P. Morgan to underwrite equities, Rep. John D. Dingell, D-Mich., introduced legislation Thursday that he said would protect taxpayers and investors in the wake of recent regulatory decisions expanding bank securities powers.

The bill by Mr. Dingell, chairman of the powerful House Energy and Commerce Committee, and co-sponsored by Rep. Edward J. Markey, D-Mass., and Rep. C. Thomas McMillen, D-Md., would require banks to place securities powers in a separate affiliate registered with the Securities and Exchange Commission. It would also repeal exemptions banks now have from SEC registration and reporting requirements.

The bill is a reaction to what the three termed the Federal Reserve Board's "misconceived grant of power to J.P. Morgan to underwrite equity securities." The Fed decision, the three said in a written statement, "underscores the degree to which Congress has lost control of the reins of financial services policy." □

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UAL Financing Fell Victim to Oil Price Risks

By WILLIAM GOODWIN

After sitting on the fence for weeks, bankers finally balked at financing the union-led buyout effort of UAL Corp. because they simply couldn't gauge the risks involved in making the loans.

Although the buyout group tried to persuade lenders that the deal would work with oil prices at $40 a barrel, the continued tensions in the Middle East made the future direction of oil prices too much of a wild card.

"We're only a bullet away from $50 oil," said an official in the U.S. office of a European bank.

ANALYSIS: *Follow-up on the news*

"I couldn't get my arms around the risk," he added, explaining why his bank decided not to lend to the buyout group, despite the lure of rich pricing on the loans.

In the end, the four lead banks backing the union effort – the banking units of Manufacturers Hanover Corp., Bankers Trust New York Corp., Security PacificCorp., and First Chicago Corp. – were able to attract only two additional banks to the cause.

A Statement Tuesday

After falling just short of the $2 billion mark, the lead banks threw in the towel late last Friday night.

With the banks out of the picture, on Tuesday the union-led group was left to submit a buyout proposal to UAL's board that called for substantially less cash than the $150 a share that the banks would have helped finance. As an alternative, the unions also proposed an all-paper transaction.

In a statement early Tuesday afternoon, UAL said its board rejected the revised buyout proposal, which relied largely on uncertain financing from the airline's suppliers.

The buyout group had been seeking $2 billion in bank loans, but the lead banks were not prepared to go forward with the deal unless they were able to raise substantially more than that amount from a group of 22 potential lenders invited to participate in the bank syndicate.

At one point last week, it appeared that the momentum had turned in the lead banks' favor.

50% Oversubscription Sought

Each of the four was prepared to commit $350 million if the syndicate succeeded.

While the lead banks never

See **DEALS** *page* **22**

INSIDE NEWS

EARNINGS

SUNTRUST of Atlanta said third-quarter profits rose 6.5% from the year-earlier level, to $88.2 million. But that performance is not likely to be matched elsewhere in the Southeast. *Page 2*

TRADE GROUPS

THE BANK CAPITAL Markets Association will dissolve by the end of October and transfer its education and training programs to the American Bankers Association. *Page 2*

FINANCE

FANNIE MAE and Freddie Mac shares plummeted along with those of banks and thrifts during the third quarter, but some analysts expect a recovery soon. *Page 24*

TECHNOLOGY

STEVEN M. KATZ, a pioneer in the automation of trust accounting, has been forced out of Premier Systems, the company he founded 12 years ago. But the super salesman has a knack for bouncing back. *Page 8*

CONSUMER

FIFTH THIRD of Cincinnati and Mellon Bank of Pittsburgh plan to increase their presence in supermarkets. *Page 18*

INTERNATIONAL

THE UNITED STATES should establish a screening board to block entry of state-owned foreign companies that might be instruments of foreign policy, says Rep. Henry B. Gonzalez. *Page 13*

HOLLAND'S NMB BANK has set up a unit to trade distressed U.S. corporate loans. *Page 15*

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U.S. Agencies Signal End Of Leniency on Antitrust

By LINDA CORMAN

WASHINGTON — In urging the Federal Reserve Board to bar the proposed merger of two Hawaiian banks, the U.S. Department of Justice is sending a message that antitrust rules could stand in the way of consolidation in at least some banking markets.

The department's statement follows an Aug. 29 ruling in which two of five Federal Reserve governors voiced similar concerns about declining competition in Minnesota.

Leniency May Be Over

The two stands appear to signal that after a period of federal leniency in the 1980s, antitrust issues may again become a consideration in bank acquisitions.

The Justice Department's statement came last week on the application by First Hawaiian Inc., parent of Hawaii's second-largest commercial bank, to acquire First Interstate of Hawaii, the market's No. 5 bank, which is to be sold by an investor group led by former Treasury Secretary William E. Simon.

Such recommendations, which the Justice Department bases on an assessment of market concentration and other competitive factors, are not binding on the Federal Reserve, which must make the final judgment. But legal experts say the Fed was unlikely to oppose the department's reasoning.

How Merger Would Affect Market Share

Domination by Hawaii's two biggest banks would grow

	First Hawaiian before merger	First Hawaiian after merger	Bank of Hawaii
Market rank	2	2	1
Offices	58	78	70
Assets ($ bil.)	$5.5	$6.3	$8.7
Share of assets	28%	32%	46%
Deposits ($ bil.)	$5.0	$5.8	$7.5
Share of deposits	29%	34%	46%

Source: Justice Department, June 1990 data

Overconcentration Found

The Justice Department said its analysis showed an overconcentration in lending to small and medium-size businesses in Hawaii. After the merger, Justice antitrust experts said, only

See **AGENCIES** *page* **13**

EPA Easing Its Stance On Lender Liability

By STEPHEN KLEEGE

Backing away from a previous position, the federal Environmental Protection Agency is circulating a draft rule that softens its stance on lender liability in environmental cases.

The fate of the draft and its enforceability if adopted, however, are being questioned by experts. Some of them claim that the draft may cause additional problems for banks that acquire contaminated properties, usually through foreclosure.

Court of Appeals Ruling

The EPA draft follows a ruling in May by the 11th U.S. Circuit Court of Appeals in Atlanta that Fleet Factors was liable for the cleanup of a defunct textile company due to the financial company's "participation in management." Fleet Factors is a subsidiary of Fleet/Norstar Financial Group Inc.

In that case, the court, broadening previous legal rulings, said

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Visa Limits Affinity Cards

In a slap at American Telephone & Telegraph Co. and other nonbank promoters of Visa cards, the board of Visa U.S.A. announced new rules Tuesday to limit nonbanks' participation in the credit card system.

The rules require affinity cards – issued by banks but carrying the names of other companies, associations, or causes – to be connected only to an account maintained by a Visa-issuing institution. Also, nonbank entities will not be allowed to finance more than 25% of a program's receivables.

With more than 5 million cards issued since its launch in March, AT&T's Universal Card is the biggest affinity product. AT&T has an agreement to purchase receivables from Synovus Financial Corp., the issuer.

The rules apply to new programs. Existing ones, such as AT&T's, will be examined. "It would be premature to complete our review" while the AT&T card is studied by the Federal Reserve Board and Federal Communications Commission, said Visa president Charles T. Russell.

For Master Chef of the Workout, New England Is a Tempting Table

By TERESA CARSON

LOS ANGELES — New England real estate may be worse than many people realized. Kenneth Leventhal & Co. has opened an office in Boston.

The nation's 11th-largest accounting firm thrives when real estate markets go bust, and Leventhal sees plenty of opportunity in New England. Comanaging partner Stan Ross expects the Boston office to employ 30 professionals fairly quickly and have 100 within three to five years.

"Because of the recession in New England, we expect a faster rate of growth there" than at our 12 other offices, he said.

No Plain Vanilla Audits

Calling Leventhal an accounting firm is almost like calling Julia Child a short-order cook. Plan vanilla audits are not the Los Angeles-based firm's mainstay.

Its expertise is structuring, evaluating, and working out complex real estate deals. It also does extensive consulting work for banks and other financial services companies.

"We don't call Stan Ross in at $400 per hour to do our books,"

Stan Ross Peggy Turbett
Kenneth Leventhal & Co.

says Theodore Leary, a principal with developer Lowe Enterprises in Los Angeles.

Leventhal's extensive roster of high-profile clients includes developers Donald Trump, John Portman, Trammell Crow, and Donald Bren. The federal government also is a prominent client.

The firm has completed a major study for the Resolution Trust Corp. evaluating the gov-

See **LEVENTHAL** *page* **11**

COMMENT / *By Mark Leemon*

RTC's Branching Victory Was a Boon for Taxpayers

Recently, the U.S. Circuit Court of Appeals for the Eighth Circuit, in a split decision, filed an opinion that is good news for the American taxpayer.

In Arkansas Independent Bankers Association v. Resolution Trust Corp. (Arkansas), the court reversed the lower court in Little Rock and upheld a regulation adopted by the Resolution Trust Corp., the temporary federal agency established by Congress to handle the gargantuan task of cleaning up the savings and loan mess.

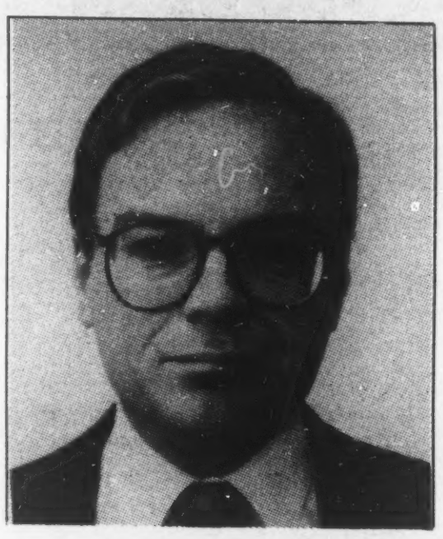
Bolsters the RTC's Arsenal

The regulation asserts that the RTC is empowered to preempt state branching statutes as it structures acquisitions of failed and failing thrifts. The eighth circuit thus adds to the RTC's arsenal for enticing private capital in its sale of thrift assets and suggests that future preemption by the RTC of other state barriers – such as prohibitions against insurance activities – will survive judicial review.

This decision marks the conclusion of the third of three court challenges to the RTC's authority to preempt state branching law. The two other cases, one in New Mexico (which the federal government won) and the other in Colorado, will be resolved by the 10th circuit. The Colorado case, which was the first case filed, was finally resolved against the federal government on Sept. 5 and will soon be on its way to the 10th circuit.

The legislative underpinning to the RTC's regulation is section 217 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, which addresses federal assistance for troubled institutions.

The first paragraph of section 217 gives the RTC the power to authorize emergency transactions "notwithstanding any provision of state law," an extraordinary grant of authority that would enable, for example, the RTC to allow an out-of-state bank holding company to acquire a thrift regardless of state laws that prohibit such companies from owning financial institutions.



"Such a broad delegation of authority should have made any challenge to the RTC an easy case to defend."

Such a broad delegation of authority should have made any challenge to the RTC an easy case to defend. Unfortunately, section 217 has additional, though ultimately vague, language that addresses the issue of branching.

Paragraph (4) states that if "a merger, consolidation, transfer, or acquisition under this subsection involves a savings association eligible for assistance and a bank or bank holding company, a savings association may retain and operate any existing branch or branches or any other existing facilities." As written, the sentence is curiously redundant because savings associations already have the authority under federal regulations to branch statewide irrespective of state laws.

In its notice of proposed rulemaking, the RTC interprets the underscored phrase "savings association" to mean essentially "resulting institution." Otherwise, the RTC reasons, the terms "merger" and "consolidation" would have no meaning. The district court judges in Arkansas and Colorado read the sentence in paragraph (4) as limiting the RTC's preemptive authority in paragraph (1).

After examining the same language, the eighth circuit concluded that Congress had not directly spoken to the branching question. The eighth circuit then

See **TAXPAYERS** *next page*

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COMMENT / *By Stuart C. Stock*

Market Concentration Index Slips as a Merger Yardstick

In recent years, it has appeared that merger antitrust analysis at the Federal Reserve Board – and at the other federal banking agencies – was often becoming little more than a numbers game.

With the general acceptance of the Herfindahl-Hirschmann Index as a market concentration gauge and the apparently irreversible triumph of the Reagan antitrust revolution, it seemed increasingly certain that any transaction satisfying the 1800/200 HHI standard would trigger no competitive concerns at the board and was assured of approval.

The HHI is calculated by summing the squares of each participant's market share.

If, for example, there are six competitors with market shares of 30%, 20%, 15%, 15%, 12%, and 8%, you would square each of the figures and add them, giving an index of 1,958.

Under the 1800/200 HRI standard, a transaction ordinarily is not thought to pose even a potential antitrust concern unless the post-consummation HHI would exceed 1,800 points and the HHI increase caused by the transaction would exceed 200 points.

Index Was Considered Decisive

To be sure, the board, like other regulators, occasionally did look beyond HHI data to quantitative factors, such as the potential for new entry, where a transaction did not satisfy the 1800/200 HHI standards.

But in many quarters, there was a growing assumption that any transaction in compliance with the 1800/200 HHI standard as applied by the board (which means counting local thrift deposits at 50% weight together with local bank deposits in calculating market shares) was within a safe harbor from an antitrust perspective.

Criterion No Longer Safe

After the board's recent Norwest decision, however, that assumption no longer appears entirely safe. In Norwest, the board approved by 3 to 2 a proposal by Minneapolis-based Norwest Corp. to acquire First Minnesota Savings Bank, a financially troubled Minneapolis thrift.

The focus of the board's competitive concern was the Minneapolis-St. Paul market, where Norwest already was the second largest competitor with 21.6% of the local deposits as calculated by the board while First Minnesota was the fifth largest competitor with 3.6% of such deposits.

In this context, the board determined that the proposed acquisition would increase the market's HHI by exactly 200 points to a total of 2,012 points.

Index Appeared Acceptable

The acquisition thus was apparently within the 1800/200 HHI safe harbor, albeit on the outer limits. The board in recent years has evidenced little reluctance to approve other transactions that, on their face, would seem considerably more troublesome under the board's HHI standard.

There was a growing assumption that any transaction meeting the HHI standard was safe.

For instance, only in July of this year, the board was presented with a proposed acquisition of the sixth-largest banking organization serving a local Maryland market by the second-largest organization that would have increased the market's HHI 258 points to 2,231 points (even after including local thrift deposits as weighted by the board).

The board approved this proposal without dissent and without relying on any additional factors other than simply the number of competitors that would remain in the market after consummation.

Despite such board rulings, even the three governors voting for approval in the recent Norwest decision did not suggest that the acquisition proposed there presented no competitive problem based on the HHI data.

Instead, the majority concluded that public benefits associated with the acquisition outweighed the adverse competitive effects that might result within the Minneapolis-St. Paul market.

The particular public benefits to which the majority referred were Norwest's planned infusion of sufficient capital into the resulting institution to remedy First Minnesota's negative net worth, and thus the resolution of a financially troubled thrift situation without any cost to federal deposit insurance funds.

Other Bids Noted

The two dissenting governors in the Norwest decision disagreed only with the majority's conclusion that the public benefits of Norwest's proposal were sufficient to outweigh the likely adverse competitive effects.

The dissenters noted that bids for First Minnesota requiring no federal assistance also had been submitted by several other potential acquirers that did not already hold a large share of the Minneapolis-St. Paul market's deposits.

In the dissenters' view, these other bidders clearly would have been competitively preferable acquirers, since the sale of First Minnesota to one of them would have strengthened a smaller competitor rather than further bolstering one of the market's leading organizations. Accordingly, they did not not believe that the public interest clearly favored Norwest's proposal.

Problem of Perspective

The dissenters' view arguably finds some support in the antitrust laws' "failing firm" doctrine, which generally holds that a target's troubled condition is no defense to an otherwise anticompetitive acquisition unless the acquisition is the least anticompetitive solution available.

From the dissenters' perspec-

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